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RUEHLH/AMCONSUL LAHORE 7566
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RHMFISS/FBI WASHINGTON DC
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C O N F I D E N T I A L SECTION 01 OF 02 ISLAMABAD 001507

SIPDIS

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TAGS: [PREL](#) [PTER](#) [PGOV](#) [PK](#)

SUBJECT: MUMBAI PROSECUTION UPDATE: ANTI-TERRORISM COURT
STALLED

REF: ISLAMABAD 1173

Classified By: Anne W. Patterson for reasons 1.4 (b), (d).

[¶1.](#) (C) Summary: There has been no movement in Pakistan's Anti-Terrorism Court (ATC) on the Mumbai prosecution case since May 23. The ATC in Rawalpindi has not had a judge on its bench to hear the case and thus no formal indictment has been filed against the five Lashkar-e-Taiba (LeT) suspects in custody. On July 6, a new judge was named to the ATC and the court should resume hearing the case on July 18. In the meanwhile, Pakistani Federal Investigative Agency (FIA) investigators traveled to FBI headquarters to exchange information with FBI counterparts and collect admissible statements about FBI examination of Pakistani forensic evidence. End summary.

DELAYS IN PROSECUTION

[¶2.](#) (C) There has been no movement in the Mumbai prosecution case since May 23. The trial has been adjourned several times and the date for formal indictment pushed back each time. The trial has been delayed primarily by the lack of a judge on the Anti-Terrorism Court (ATC) Rawalpindi bench. The previous judges were dismissed as part of national judicial reforms.

[¶3.](#) (C) On July 4, the hearing was further delayed until July [¶18.](#) On July 6, a new judge, Baqir Ali Rana, took charge of the ATC bench. The five suspects in custody, Zaki ur-Rehman Lakhvi, Hamad Ameen Sadiq, Mazhar Iqbal (aka al Qama), Abdul Wajid (aka Zarrar Shah), and Shahid Jamil Riaz, were provided copies of informal charge sheets against them on May 5. However, the Federal Investigative Agency (FIA) has not formally indicted the suspects with a final charge sheet due to the absence of an ATC judge. The FIA expects to indict the suspects formally on July 18.

FIA VISIT TO U.S.

[¶4.](#) (C) From June 16 to 21, FIA investigators visited Washington to collect statements and exchange information with FBI counterparts regarding the Mumbai case. The meetings were significant and helped the FIA understand the complex forensic examination of Pakistan's physical evidence by the FBI. The investigators will testify in Pakistani court as to the veracity of the FBI's methods. The FIA investigators, Deputy Director Operations and Special

Investigation Group (SIG) Sohail Habib and SIG Inspector Zahid Akhtar, were briefed by FBI laboratory personnel on the status of the examinations on the evidence received by the USG. The FIA investigators took statements from several FBI investigators and laboratory personnel to be used in the prosecution of the Mumbai case in Pakistan.

15. (C) The FIA investigators provided copies of the official requests made to date of the FBI. The FIA investigators, in turn, were provided certified true redacted copies of laboratory reports, summary of GPS information and associated records, copies of CallPhonex records, and associated derivative evidence documentation.

16. (C) At the conclusion of the meetings, documentation of the requests pending was exchanged.

Pending FIA requests to FBI:

- Digital copies of latent fingerprints recovered on all FIA evidence
- DNA profiles of all DNA found to date on all FIA evidence
- IED expert report
- Thuraya satellite telephone records
- CallPhonex statements
- Status request of evidence samples from India

CONTINUING INVESTIGATION

17. (C) Embassy Legatt continues to meet weekly with FIA investigators on the Mumbai prosecution. Though the trial has been stalled for over a month, the FIA investigators are

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using this extra time to piece together the necessary evidence for the eventual trial. After a successful visit to FBI headquarters, the FIA investigators are currently focused on obtaining CallPhonex statements and records that are admissible in court. To that end, a Legatt FBI investigator is in Amman, Jordan to interview and obtain documents directly from the head of CallPhonex. FIA investigators may join him there this week to get signed and certified copies of the CallPhonex records. On July 3, FIA investigators shared with Legatt that the naming of an ATC judge was imminent since further stalling was not in the GOP's interest.

18. (C) Comment: Pakistan's routine judicial sloth coupled with the Chief Justice's judicial reform program have left the Mumbai prosecution in limbo. Ironically, the Chief Justice's reforms aimed at increasing judicial efficiency have left the ATC bench vacant. From India's perspective, however, the GOP is purposefully delaying the prosecution to avoid convicting LeT terrorists. As the Sharm el Sheikh talks draw near and with the GOP hoping to restart the Composite Dialogue, successful prosecution of the Mumbai attack terrorists is fundamental to normalizing relations between the two nations. The naming of a new ATC judge is a step in the right direction. The FIA is cooperating with the FBI and working hard with the little evidence they have to present a convincing case, which they admit is weak in regards to the top three LeT terrorists. End comment.

PATTERSON